

1. Information Disclosure Statement

Applicant submitted an Information Disclosure Statement on July 20, 2005 (the "IDS"), which listed KR 1999-0086006 and a Notification for Filing Opinion (the "Notification") from the Korean Intellectual Property Office. However, the Examiner did not acknowledge these references. Applicant notes that submitted with the Information Disclosure Statement was an English language translation of the Notification, which cited the non-English document and set forth the relevance thereof. Accordingly, Applicant respectfully requests that the Examiner acknowledge his consideration of these references by properly initialing the SB-08 included with the IDS.

2. Rejection of Claims 1-18 Over *Hamagishi* in view of *Yugi*

Applicant respectfully traverses the rejection of claims 1-18 over *Hamagishi* in view of *Yugi*. *Hamagishi* does not qualify as prior art with respect to the rejected claims.

On March 14, 2008, Applicant perfected its claim for priority to JP 2002-198753, filed on July 8, 2002. This July 8, 2002 date predates *Hamagishi's* effective prior art date of November 15, 2002 (*Hamagishi's* publication date). Therefore, *Hamagishi* does not qualify as prior art with respect to the rejected claims. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1-18 over *Hamagishi* in view of *Yugi* under 35 U.S.C. § 103(a).

3. Rejection of Claims 1-18 Over *Kobayashi* in view of *Yugi*

Applicant respectfully traverses the rejection of claims 1-18 over *Kobayashi* in view of *Yugi*. The Office Action failed to establish a *prima facie* case of obviousness.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. See

M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See id. “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” M.P.E.P. § 2145. Furthermore, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. M.P.E.P. § 2143.01(III), internal citation omitted. Moreover, “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(I), internal citations omitted (emphasis in original).

“[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

The cited references, individually or in combination, fail to teach or suggest an apparatus including, among other things, “a display including a screen on which a plurality of pixels are arranged to display synthesis parallax images in units of arrayed sub regions, wherein each of the pixels includes three sub pixels that differ in color, the

sub pixels are laid out so that adjacent sub pixels differ in color, and parallax information is assigned to each of the sub pixels in units of *horizontally arranged sub pixels*,” as recited in claim 1 (emphasis added). Claim 9, although of different scope, recites a similar element.

The Office Action acknowledges that *Kobayashi* fails to teach or suggest sub pixels. See Office Action, pg. 7. However, the Office Action takes official notice that “it is well known in the art to use sub pixels having different colors to create a color image, instead of using pixels having different colors.” See *id.* The Office Action does not indicate that it is well known in the art to use horizontally arranged sub pixels.

Applicant traverses the Office Action’s taking of official notice without the requisite documentary evidence. Specifically, “[i]t is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based” (emphasis added). See M.P.E.P. § 2144.03. Indeed, it would “not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.” See *id.* If Applicant challenges the Examiner’s assertion of official notice, the Examiner “must provide documentary evidence in the next Office action if the rejection is to be maintained.” See *id.* Applicant submits that the use of sub pixels in the context of the claimed invention is not well known in the art. Accordingly, Applicant respectfully requests that the Examiner

provide documentary evidence clearly demonstrating that “it is well known in the art to use sub pixels having different colors to create a color image, instead of using pixels having different colors” in the context of claims 1 and 9.

Furthermore, while the Office Action relies on *Yugi* as allegedly teaching “arranging sub pixels on a screen,” it does not specifically discuss if or how *Yugi* teaches horizontally arranged sub pixels. *See id.* Indeed, *Yugi* fails to teach or suggest horizontally arranged sub pixels as recited in claims 1 and 9. For example, drawing 2 shows that *Yugi*’s control picture element part 11 includes picture element parts arranged in the lengthwise direction. *See, e.g.*, paragraph [0020] of the English translation of *Yugi*.

For at least these reasons, neither *Kobayashi* or *Yugi*, alone or in combination, teach or suggest “horizontally arranged sub pixels,” as recited in claims 1 and 9. In view of the above, the Office Action has not properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Accordingly, the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 1 and 9. Thus, Applicant respectfully requests withdrawal of the rejection of claims 1 and 9, as well as claims 2-8 and 10-18 depending therefrom.

4. Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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